



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/013,078	12/10/2001	Antonio R. Bogat	9975	1412
26884	7590	10/12/2005		
PAUL W. MARTIN LAW DEPARTMENT, WHQ-4 1700 S. PATTERSON BLVD. DAYTON, OH 45479-0001			EXAMINER O'CONNOR, GERALD J	
			ART UNIT	PAPER NUMBER
			3627	

DATE MAILED: 10/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/013,078

Applicant(s)

Bogat

Examiner

O'Connor

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on July 7, 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) 1-4 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5 and 6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on December 10, 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☒ Other: Office Flyer - Revised Amendment Practice

DETAILED ACTION

Preliminary Remarks

1. This Office action responds to the amendment and arguments filed by applicant on July 7, 2005 in reply to the previous Office action, mailed April 7, 2005.
2. The amendment of claims 5 and 6 by applicant in the reply filed on July 7, 2005 is hereby acknowledged.

Response to Amendment

3. The amendment submitted July 7, 2005 fails to comply with 37 CFR 1.121(c) because it fails to include a complete listing of all claims ever presented, including the text of all pending and withdrawn claims (text of withdrawn claims 1-4 not presented). The paper has been entered, but all future amendments *must* comply with 37 CFR 1.121.

Election/Restriction

4. Pending claims 1-4 continue to stand withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a non-elected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed March 8, 2005.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

6. Claims 5 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Humble et al. (US 4,792,018).

Humble et al. disclose a method of detecting misappropriation of goods in a self-checkout lane in a store, the self-checkout lane having an incoming goods path and a goods collection zone, and goods being passed, in service, from the incoming goods path into the goods collection zone; the incoming goods path including a product scanner electrically coupled to a processor, and the goods collection zone including a weighing scale electrically coupled to the processor; the method being performed by a processor and comprising the steps:

(a) receiving input from the product scanner identifying goods introduced by a customer into the incoming goods path;

(b) controlling one or more barriers so as to restrict access by a customer to the goods collection zone during introduction of goods into the incoming goods path and introduction of goods into the goods collection zone;

(c) calculating, by referring to a record of product weights, a total weight value representative of the total weight of the goods introduced into the incoming goods path;

(d) receiving input from the weighing scale specifying the total weight of the goods once received in the goods collection zone;

(e) comparing the said total weight value with the said total weight of the goods and calculating any discrepancy between the said weights; and,

(f) if the calculated discrepancy exceeds a predetermined value, inhibiting conclusion of a transaction for purchase of goods introduced into the incoming goods path and assembled in the goods collection zone and continuing to control the one or more barriers so as to restrict access to the goods collection zone until the discrepancy is resolved and the transaction is concluded.

Regarding claim 6, the method of Humble et al. further comprises notifying store personnel or operating an alarm if the calculated discrepancy is greater than the predetermined value.

Response to Arguments

7. Applicant's arguments filed July 7, 2005 have been fully considered but they are not persuasive.

8. The arguments regarding the previous prior art rejections have been considered, but have been rendered moot by applicant's amendment, and the consequent new grounds of rejection.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to the disclosure.

10. Applicant's amendment necessitated any new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

11. Any inquiry concerning this communication, or earlier communications, should be directed to the examiner, **Jerry O'Connor**, whose telephone number is **(571) 272-6787**, and whose facsimile number is **(571) 273-6787**.

The examiner can normally be reached weekdays from 9:30 to 6:00.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Mr. Alexander Kalinowski, can be reached at **(571) 272-6771**.

Official replies to this Office action may be submitted by any *one* of fax, mail, or hand delivery. **Faxed replies are preferred and should be directed to (571) 273-8300**. Mailed replies should be addressed to "Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450." Hand delivered replies should be delivered to the "Customer Service Window, Randolph Building, 401 Dulany Street, Alexandria, VA 22314."

GJOC
September 30, 2005

 9/30/05

Gerald J. O'Connor
Primary Examiner
Group Art Unit 3627